

UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF NEW HAMPSHIRE

NEW HAMPSHIRE HOSPITAL  
ASSOCIATION, et al.,

Plaintiffs,

V.

CIVIL ACTION No. 1:15-cv-00460

SYLVIA MATHEWS BURWELL, in her official capacity as Secretary of the United States Department of Health and Human Services,

ANDREW SLAVITT, in his official capacity as  
Acting Administrator, Centers for Medicare and  
Medicaid Services,

and

CENTERS FOR MEDICARE AND MEDICAID  
SERVICES,

Defendants.

**SUPPLEMENTAL EXPLANATORY DECLARATION OF STEPHEN AHNEN IN  
SUPPORT OF OPPOSITION TO DEFENDANTS’ RULE 12(b)(1) MOTION TO  
DISMISS**

I, Stephen Ahnen, declare as follows:

1. I am over the age of 18 and make this declaration on personal knowledge.
2. I am the President of the New Hampshire Hospital Association (“NHHA”).
3. Consistent with the NHHA’s mission to provide leadership through advocacy, I

have been in discussions with the New Hampshire Department of Health and Human Services (“DHHS”) regarding how the DHHS intends to undertake recoupment and redistribution for the overpayments created by FAQ Nos. 33 & 34, as reflected in the state fiscal year 2011 DSH audit conducted by Myers and Stauffer.

4. Specifically, I asked the DHHS for its position in the event plaintiffs succeed in obtaining the injunctive relief they seek in this case.

5. By letter dated January 27, 2016, DHHS Commissioner Jeffrey Meyers indicated his Department's belief that if the injunctive relief plaintiffs have requested in this case were granted, DHHS would not be able to require recoupment while the injunction is in place, or be obligated to redistribute, based on the state fiscal year 2011 DSH audit conducted by Myers and Stauffer, to the extent recoupment is required due to the application of FAQ Nos. 33 & 34.

6. A true and correct copy of the January 27, 2016, letter is attached hereto as Exhibit A.

I declare under the penalty of perjury that the foregoing is true and correct, executed on the date referenced below.

Dated: February 12, 2016

By: /s/ Stephen Ahnen  
Stephen Ahnen